

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **JAQUELINE S. SILKEY, M.D.**

5 Holder of License No. 26342
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Case No. MD-04-0159A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND
PROBATION**

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and Jaqueline S. Silkey, M.D. ("Respondent"), the parties agreed to the following
11 disposition of this matter.

12 1. Respondent acknowledges that she has read and understands this Consent
13 Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent
14 Agreement.") Respondent acknowledges that she understands he has the right to consult
15 with legal counsel regarding this matter and has done so or chooses not to do so.

16 2. Respondent understands that by entering into this Consent Agreement she
17 voluntarily relinquishes any rights to a hearing or judicial review in State or federal court on
18 the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
19 Board, and waives any other cause of action related thereto or arising from said Consent
20 Agreement.

21 3. Respondent acknowledges and understands that this Consent Agreement is
22 not effective until approved by the Board and signed by its Executive Director.

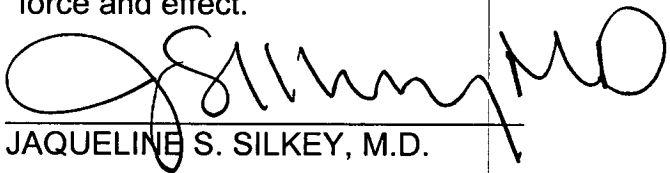
23 4. All admissions made by Respondent are solely for final disposition of this
24 matter and any subsequent related administrative proceedings or civil litigation involving
25 the Board and Respondent. Therefore, said admissions by Respondent are not intended
or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in this State or any other
2 state or federal court.

3 5. Respondent acknowledges and agrees that, although the Consent
4 Agreement has not yet been accepted by the Board and issued by the Executive Director,
5 Respondent may not revoke his acceptance of the Consent Agreement. Respondent may
6 not make any modifications to the document. Any modifications to this original document
7 are ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement and Order,
9 once approved and signed is a public record that may be publicly disseminated as a
10 formal action of the Board and will be reported to the National Practitioner's Data Bank
11 and will be reported to the Arizona Medical Board's website.

12 7. If any part of the Consent Agreement is later declared void or otherwise
13 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
14 force and effect.

15 
16 _____
JAQUELINE S. SILKEY, M.D.

15 5-17-05
16 _____
Date

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 26342 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-04-0159A after receiving a report from the Drug Enforcement Administration ("DEA") that Respondent wrote a prescription for Norco, a controlled substance, to a patient and picked up the medication herself.

4. The Board's investigation found that Respondent wrote prescriptions for her friends and family members who later provided drugs to her. Respondent admitted to obtaining narcotics in this way since the winter of 2001. Respondent also admitted to manipulating others in obtaining narcotics for her addiction.

5. Witness statements and pharmacy studies corroborated Respondent's method for obtaining narcotics.

6. Prior to the Board's notification from DEA Respondent self reported her drug addiction to the Board's contracted addiction medicine specialist ("Specialist").

7. On or about January 20, 2004 Respondent called Specialist and reported that she may have a problem with controlled substances. Specialist recommended that Respondent undergo an inpatient evaluation to determine whether she was impaired. Respondent agreed and subsequently underwent inpatient evaluation. Respondent then signed an Interim Consent Agreement for Practice Restriction providing that she not practice medicine until further order of the Board.

8. The facility that conducted the inpatient evaluation determined that Respondent was safe to return to practice provided that she participate in the Board's

1 Monitored Aftercare Program ("MAP"). Respondent signed an Interim Consent Agreement
2 for MAP on April 16, 2004 and has been compliant with the terms of her agreement.

3 9. The underlying investigation into the report filed by DEA is complete and
4 Respondent has agreed to enter a consent agreement for Probation.

5 **CONCLUSIONS OF LAW**

6 1. The Arizona Medical Board possesses jurisdiction over the subject matter
7 hereof and over Respondent.

8 2. The Board has received substantial evidence supporting the Findings of Fact
9 described above and said findings constitute unprofessional conduct or other grounds for
10 the Board to take disciplinary action.

11 3. The conduct and circumstances above constitute unprofessional conduct
12 pursuant to A.R.S. § 32-1401(27)(a) – ("[v]iolating any federal or state laws or rules and
13 regulations applicable to the practice of medicine.)"

14 4. The conduct and circumstances above constitute unprofessional conduct
15 pursuant to A.R.S. § 32-1401(27)(e) – ("[f]ailing or refusing to maintain adequate records
16 on a patient.)"

17 5. The conduct and circumstances above constitute unprofessional conduct
18 pursuant to A.R.S. § 32-1401(27)(f) – ("[h]abitual intemperance in the use of alcohol or
19 habitual substance abuse.)"

20 6. The conduct and circumstances above constitute unprofessional conduct
21 pursuant to A.R.S. § 32-1401(27)(g) – ("[u]sing controlled substances except if prescribed
22 by another physician for use during a prescribed course of treatment.)"

23 7. The conduct and circumstances above constitute unprofessional conduct
24 pursuant to A.R.S. § 32-1401(27)(j) – ("[p]rescribing, dispensing or administering any
25

1 controlled substance or prescription-only drug for other than accepted therapeutic
2 purposes.)”

3 **ORDER**

4 Based upon the foregoing Findings of Fact and Conclusions of Law,

5 IT IS HEREBY ORDERED that:

6 1. Respondent is issued a Decree of Censure for diverting controlled
7 substances for personal use; for failing to maintain adequate records; and for habitual
8 substance abuse.

9 2. Respondent placed on Probation for approximately five years¹ with the
10 following terms and conditions:

11 a. Respondent shall submit quarterly declarations under penalty of perjury on
12 forms provided by the Board, stating whether there has been compliance with all
13 conditions of probation. The declarations shall be submitted on or before the 15th of
14 March, June, September and December of each year, beginning on or before June 15,
15 2005.

16 b. Respondent shall participate in the Board's Monitored Aftercare Program
17 pursuant to the following:

18 1. **Participation.** Respondent shall promptly enroll in and participate in the
19 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians
20 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for five
21 years from the effective date of this Order. Respondent's participation in MAP may be
22 unilaterally terminated with or without cause at the Board's discretion at any time after the
23 issuance of this Order.

24
25 ¹ Board staff is instructed to calculate the length of the Probationary term based on the physician's participation in MAP under the Interim Order.

1 **2. Group Therapy.** Respondent shall attend MAP's group therapy sessions
2 one time per week for the duration of this Order, unless excused by the MAP group
3 therapist for good cause such as illness or vacation. Respondent shall instruct the MAP
4 group therapist to release to the Board, upon its request, all records relating to
5 Respondent's treatment, and to submit monthly reports to the Board regarding attendance
6 and progress. The reports shall be submitted on or before the 10th day of each month.

7 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
8 step meetings or other self-help group meetings appropriate for substance abuse and
9 approved by the Board, for a period of ninety days beginning not later than either (a) the
10 first day following Respondent's discharge from chemical dependency treatment or (b) the
11 date of this Order.

12 **4.** Following completion of the ninety meetings in ninety days, Respondent shall
13 participate in a 12-step recovery program or other self-help program appropriate for
14 substance abuse as recommended by the MAP group therapist and approved by the
15 Board. Respondent shall attend a minimum of three 12-step or other self-help program
16 meetings per week.

17 **5. Board-Approved Primary Care Physician.** Respondent shall promptly
18 obtain a primary care physician and shall submit the name of the physician to Board Staff
19 in writing for approval. The Board-approved primary care physician ("PCP") shall be in
20 charge of providing and coordinating Respondent's medical care and treatment. Except in
21 an *Emergency*, Respondent shall obtain medical care and treatment only from the PCP
22 and from health care providers to whom the PCP refers Respondent from time to time.
23 Respondent shall request that the PCP document all referrals in the medical record.
24 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and
25 provide a copy of this Order to that physician. Respondent shall also inform all other

1 health care providers who provide medical care or treatment that Respondent is
2 participating in the Board's rehabilitation program.

3 **6. Medication.** Except in an *Emergency*, Respondent shall take no *Medication*
4 unless the PCP or other health care provider to whom the PCP makes a referral
5 *prescribes the Medication*. Respondent shall not self-prescribe any *Medication*.

6 **7.** If a controlled substance is prescribed, dispensed, or is administered to
7 Respondent by any person other than PCP, Respondent shall notify the PCP in writing
8 within 48 hours. The notification shall contain all information required for the medication
9 log entry specified in paragraph 8. Respondent shall request that the notification be made
10 a part of the medical record. This paragraph does not authorize Respondent to take any
11 *Medication* other than in accordance with paragraph 6.

12 **8. Medication Log.** Respondent shall maintain a current legible log of all
13 *Medication* taken by or administered to Respondent, and shall make the log available to
14 the Board and its Staff upon request. For *Medication* (other than controlled substances)
15 taken on an on-going basis, Respondent may comply with this paragraph by logging the
16 first and last administration of the *Medication* and all changes in dosage or frequency. The
17 log, at a minimum, shall include the following:

- 18 a. Name and dosage of *Medication* taken or administered;
- 19 b. Date taken or administered;
- 20 c. Name of prescribing or administering physician;
- 21 d. Reason *Medication* was prescribed or administered.

22 This paragraph does not authorize Respondent to take any *Medication* other than in
23 accordance with paragraph 6.

24 **9. No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
25 any food or other substance containing poppy seeds or alcohol.

1 **10. Biological Fluid Collection.** During all times that Respondent is physically
2 present in the State of Arizona and such other times as Board Staff may direct,
3 Respondent shall promptly comply with requests from Board Staff, the MAP group
4 therapist, or the MAP Director to submit to witnessed biological fluid collection. If
5 Respondent is directed to contact an automated telephone message system to determine
6 when to provide a specimen, Respondent shall do so within the hours specified by Board
7 Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly
8 comply" means "immediately". In the case of a telephonic request, "promptly comply"
9 means that, except for good cause shown, Respondent shall appear and submit to
10 specimen collection not later than two hours after telephonic notice to appear is given.
11 The Board in its sole discretion shall determine good cause.

12 **11.** Respondent shall provide Board Staff in writing with one telephone number
13 that shall be used to contact Respondent on a 24 hour per day/seven day per week basis
14 to submit to biological fluid collection. For the purposes of this section, telephonic notice
15 shall be deemed given at the time a message to appear is left at the contact telephone
16 number provided by Respondent. Respondent authorizes any person or organization
17 conducting tests on the collected samples to provide testing results to the Board and the
18 MAP director.

19 **12.** Respondent shall cooperate with collection site personnel regarding
20 biological fluid collection. Repeated complaints from collection site personnel regarding
21 Respondent's lack of cooperation regarding collection may be grounds for termination
22 from the program.

23 **13. Payment for Services.** Respondent shall pay for all costs, including
24 personnel and contractor costs, associated with participating in the Monitored Aftercare
25 Program at time service is rendered, or within 30 days of each invoice sent to Respondent.

1 **14. Examination.** Respondent shall submit to mental, physical, and medical
2 competency examinations at such times and under such conditions as directed by the
3 Board to assist the Board in monitoring Respondent's ability to safely perform as a
4 physician and Respondent's compliance with the terms of this Order.

5 **15. Treatment.** Respondent shall submit to all medical, substance abuse, and
6 mental health care and treatment ordered by the Board, or recommended by the MAP
7 Director.

8 **16. Obey All Laws.** Respondent shall obey all federal, state and local laws, and
9 all rules governing the practice of medicine in the State of Arizona.

10 **17. Interviews.** Respondent shall appear in person before the Board and its
11 Staff and committees for interviews upon request, upon reasonable notice.

12 **18. Address and Phone Changes, Notice.** Respondent shall immediately
13 notify the Board in writing of any change in office or home addresses and telephone
14 numbers. Respondent shall provide Board Staff at least three business days advance
15 written notice of any plans to be away from office or home when such absence would
16 prohibit Respondent from responding to an order to provide a biological fluid specimen or
17 to communications from the Board. The notice shall state the reason for the intended
18 absence from home or office, and shall provide a telephone number that may be used to
19 contact Respondent.

20 **19. Relapse, Violation.** In the case of chemical dependency relapse by
21 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent
22 shall promptly enter into an Interim Consent Agreement that requires, among other things,
23 that Respondent not practice medicine until such time as Respondent successfully
24 completes an inpatient or residential treatment program for chemical dependency
25 designated by the Board or Staff and obtains affirmative approval to return to the practice

1 of medicine. Prior to approving Respondent's request to return to the practice of medicine,
2 Respondent may be required to submit to witnessed biological fluid collection, undergo
3 any combination of physical examination, psychiatric or psychological evaluation and/or
4 successfully pass the special purpose licensing examination or the Board may conduct
5 interviews for the purpose of assisting it in determining Respondent's ability to safely
6 return to the practice of medicine. **In no respect shall the terms of this paragraph**
7 **restrict the Board's authority to initiate and take disciplinary action for violation of**
8 **this Order.**

9 **20. Notice Requirements.**

10 **(A)** Respondent shall immediately provide a copy of this Order to all employers and
11 all hospitals and free standing surgery centers at which Respondent currently has
12 privileges. Within 30 days of the date of this Order, Respondent shall provide the Board
13 with a signed statement of compliance with this notification requirement. Upon any
14 change in employer or upon the granting of privileges at additional hospitals and free
15 standing surgery centers, Respondent shall provide the employer, hospital or free standing
16 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
17 the granting of privileges at additional hospitals and free standing surgery centers,
18 Respondent shall provide the Board with a signed statement of compliance with this
19 notification requirement.

20 **(B)** Respondent is further required to notify, in writing, all employers, hospitals and
21 free standing surgery centers at which Respondent currently has or in the future gains
22 employment or privileges, of a chemical dependency relapse, use of drugs or alcohol in
23 violation of this Order and/or entry into a treatment program. Within seven days of any of
24 these events Respondent shall provide the Board written confirmation of compliance with
25 this notification requirement.

1 (C) Respondent shall immediately submit to the Board under penalty of perjury, on
2 a form provided by the Board, the name(s) and address(es) of all employers and all
3 hospitals and free standing surgery centers at which Respondent currently holds privileges
4 to practice. Respondent is further required to, under penalty of perjury, on a form provided
5 by the Board, immediately notify the Board of any changes in employment and of any
6 hospitals and free standing surgery centers at which Respondent gains privileges after the
7 effective date of this Order.

8 21. **Public Record.** This Order is a public record.

9 22. **Out-of State.** In the event Respondent resides or practices as a physician in
10 a state other than Arizona, Respondent shall participate in the rehabilitation program
11 sponsored by that state's medical licensing authority or medical society. Respondent shall
12 cause the other state's program to provide written reports to the Board regarding
13 Respondent's attendance, participation, and monitoring. The reports shall be due on or
14 before the 15th day of March and September of each year, until the Board terminates this
15 requirement in writing.

16 23. This Order supersedes all previous consent agreements and stipulations
17 between the Board and Respondent.

18 24. The Board retains jurisdiction and may initiate new action based upon any
19 violation of this Order.

20 DEFINITIONS

21 "**Medication**" means "prescription-only drug, controlled substance, and over-the
22 counter preparation, other than plain aspirin and plain acetaminophen."

23 "**Emergency**" means "a serious accident or sudden illness that, if not treated
24 immediately, may result in a long-term medical problem or loss of life."
25

1 This Order is the final disposition of case number MD-04-0159A.

2 DATED this 9th day of June, 2005.

3
4 ARIZONA MEDICAL BOARD



By 

TIMOTHY C. MILLER, J.D.
Executive Director

12 ORIGINAL of the foregoing filed this
9th day of June, 2005 with:

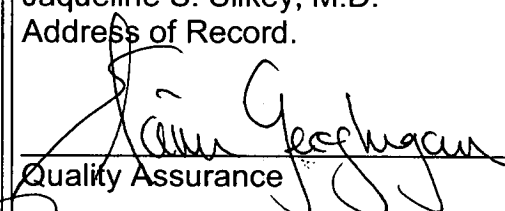
13 The Arizona Medical Board
14 9545 East Doubletree Ranch Road
15 Scottsdale, Arizona 85258

16 Executed copy of the foregoing
17 mailed this
9th day of June, 2005, to:

18 Mr. Calvin Raup
19 Shughart Thomson & Kilroy
20 3636 N. Central Avenue, Suite 1200
21 Phoenix, AZ 85012-1998

22 Executed copy of the foregoing
23 mailed this
9th day of June, 2005, to:

24 Jaqueline S. Silkey, M.D.
25 Address of Record.


Quality Assurance